



NEW MEXICO FIREARMS INDUSTRY ASSOCIATION

To PROTECT, PRESERVE and PROMOTE the firearms industry in New Mexico.

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OPPOSE HOUSE BILL 129: 7-DAY DELAY ON GUN BUYERS WHO PASS BACKGROUND CHECKS

HB129 has many technical flaws: **(1) it does not exempt concealed handgun licensees who already passed an extensive background check** (as SB 69, approved by the same committee, did); **(2) it does not exempt federal firearms licensees** (subjecting them to a 7-day wait when purchasing from a distributor or transferring inventory with another FFL); **(3) it will end gun shows** (no transfers could take place within the 3-day time-frame of such events); and **(4) it halts online sales** (the seller is a third party that ships the firearm to an FFL for the buyer; the buyer goes to the FFL for the background check and transfer; the FFL must have physical possession of the gun to initiate the background check, but the bill requires the seller to maintain custody of the firearm during the waiting period, and prohibits transfer before completion of the background check; the sale stalls before it even gets going under the language of the bill.)

HB 129 doesn't improve or enhance federally-mandated background checks. 90% of checks come back with an instant "proceed" response, meaning the firearm can be transferred on the spot. There isn't any additional checking in NICS once the "proceed" is given and the waiting period clock starts ticking. If a purchaser is delayed in picking up their firearm for any reason after the waiting period expires, they will have to start the process all over again as all background checks expire 30 calendar days after initial submission into NICS.

HB 129 includes but doesn't address items covered by the National Firearms Act (NFA). A purchaser of these items (suppressors, short-barreled rifles & shotguns) pays a \$200 federal tax, applies to ATF for ownership of the item, and waits up to a year for completion of a background check and approval to take possession of the item. **It is illegal for the FFL to conduct a NICS background check after ATF approval when an NFA item is transferred to the owner.**

If a background check is delayed, federal law prohibits the FFL from transferring the firearm for 3 business days, usually 5-7 calendar days, regardless of any state law. In line with federal law, individual FFLs establish policies about whether to complete the transfer after that period. According to the National Shooting Sports Foundation 88% of NICS checks are resolved in 3 business days and 94% within 10 days. If the FFL lawfully transfers a firearm after 3 business days expire, and NICS later determines that the transaction should have been denied, NICS notifies the FFL and contacts ATF to handle the case as a Firearm Retrieval Referral. **In 2021, a minuscule 0.014% of transferred firearms were referred to ATF for retrieval because the purchaser turned out to be a prohibited person, according to the FIX NICS September 2022 report.**

HB 129 will not provide a "cooling off" period for gun buyers to prevent impulsive acts of self-harm or crime. Two thirds of gun owners have more than one firearm, so a "cooling-off" period would not have an effect on them. ATF traces firearms found at crime scenes, including suicides. **From 2017 to 2021, only 9% of traced firearms had a "time to crime" of less than 3 months.** The impulse purchase of a firearm from an FFL and then immediately being used it to harm themselves or somebody else is just anecdotal.

HB 129 disproportionately impacts gun buyers in rural New Mexico. FFLs in rural areas have a customer radius of up to 100 miles or more. And while customers can shop online, in order to take delivery of a firearm, they must physically go to an FFL to fill out their Form 4473 and initiate the background check. Then they must drive home and wait a week before returning to pick up the firearm at the FFL – even if the background check response from FBI came back as a PROCEED during the first visit. That could add up to a 400-mile journey on top of a 7-day wait for a law-abiding citizen in rural New Mexico to buy a new gun.